

N.J.A.C. 7:26I
Licensed Site Remediation Professionals

Statutory authority
N.J.S.A. 58:10C-1 et seq.

For the regulatory history and effective dates see the New Jersey Administrative Code

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SUBCHAPTER 1. GENERAL PROVISIONS

7:26I-1.1 Purpose of Chapter

(a) The purpose of this chapter is to:

1. Establish licensing requirements for site remediation professionals;
2. Regulate the practices of LSRPs in the State of New Jersey;
3. Assure that any response action outcome issued by a site remediation professional licensed pursuant to N.J.S.A. 58:10C-1 et seq. shall be consistent with all applicable laws, rules and regulations concerning the remediation of contaminated sites and shall protect public health and safety and the environment; and
4. Assure that an LSRP's highest priority in the performance of professional services shall be the protection of public health and safety and the environment.

7:26I-1.2 Scope of Chapter

(a) The provisions of this chapter shall constitute the rules of the Site Remediation Professional Licensing Board, pursuant to N.J.S.A. 58:10C-1 et seq., governing the State's LSRP Program.

(b) Chapter 7:26I shall establish:

1. A licensing program for site remediation professionals, including eligibility requirements and procedures for the review of applicants' qualifications, examination of applicants, issuance of licenses, renewal of licenses, expiration, suspension, revocation and inactivation of licenses and publication of the names, contact information and status of LSRPs;
2. The fees necessary for the services performed by the Board required to support the administration of the licensed site remediation professional program of the Site Remediation Reform Act, including qualification fees, annual license fees and license renewal fees;
3. A program of continuing education for LSRPs including the requirements for defining continuing education credits, the number and type of continuing education credits needed by LSRPs to renew their license, and the standards and procedures for approving continuing education;

4. The procedures for auditing the submissions and conduct of LSRPs, including the process by which LSRPs are selected for audit, the audit review process to be followed by the Board, the outcome of an audit and the consequences for failure to cooperate with an audit;
5. The rules of professional conduct for LSRPs, including a code of conduct by which all LSRPs are to comport themselves;
6. The procedures for disciplinary proceedings against LSRPs including the filing of complaints, investigation of complaints by the Board, actions the Board may take relative to complaints and violations, and requirements for notice and right to a hearing;
7. The procedures for adjudicatory hearings to appeal certain determinations by the Board; and
8. The prohibition of retaliatory action against LSRPs for certain actions that they may take in order to fulfill their duties and responsibilities and the prohibition of retaliatory action by LSRPs against persons who bring complaints to the Board or provide information to the Board in the investigation of a complaint or an audit.

7:26I-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Alternative verifiable learning format” shall mean any videotape, audiotape, remote place viewing or on-line internet computer presentations, satellite simulcast, teleconferencing, videoconferencing, internet computer self-study, or other alternative format authorized by the Board.

"Board" means the Site Remediation Professional Licensing Board as defined pursuant to the Site Remediation Reform Act at N.J.S.A. 58:10C-2.

“Board Website” means information posted at <http://www.nj.gov/l srpboard/>

“Continuing Education” shall mean any Board approved course or educational program concerning regulation of site remediation, scientific and technical principles of site remediation, and/or ethical obligations of site remediation professionals in New Jersey. Generally, continuing education is designed principally to maintain or advance the professional competence, skill and knowledge of site remediation professionals and/or to expand an appreciation and understanding of the ethical and professional responsibilities of licensed site remediation professionals.

“Continuing education credit” or “CEC” is a Board-approved unit of continuing education. Generally, the Board approves one CEC per one hour of instruction.

“Day” means a calendar day.

“Department” means the New Jersey Department of Environmental Protection.

"Discharge" means an action or omission defined as such pursuant to the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-1.8.

“Ethics” shall mean the substance, underlying rationale, and practical application of the Rules Of Professional Conduct (N.J.A.C. 7:26I-6 et seq.); and the professional obligations of the LSRP to the client, the public, and the environment.

“Full-Time Professional Experience” includes experience in which the applicant is required to apply scientific or engineering principles to contaminated site remediation where the resulting conclusions form the basis for reports, studies or other documents connected with the remediation of a contaminated site. The Board may consider the applicant's work activities, field of practice, duration of employment, and work products prepared in determining the credit to be allowed for professional experience. The Board may allow applicants with relevant advanced degrees up to two years of credit for professional experience, of which one year of credit may be awarded for applicants who have earned a master's degree in a relevant field of study and up to two years of credit may be awarded for applicants who have earned a doctorate degree in a relevant field of study.

"Immediate environmental concern" or "IEC" means any such concern as defined in the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-1.8.

“License” means approval which the Board issues to an individual pursuant to N.J.S.A. 58:10C-1 et seq. which authorizes the individual to act as, advertise as, hold himself out to be, or represent himself as being an LSRP in the State of New Jersey.

"Licensed Site Remediation Professional" or “LSRP” means an individual who is licensed by the Board pursuant to N.J.S.A. 58:10C-7.

“Person” means a person defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites at N.J.A.C. 7:26C-1.3.

“Person responsible for conducting the remediation” means any person defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites at N.J.A.C. 7:26C-1.3.

“Relevant Professional Experience” is experience working under the direction of an LSRP within an organization whose primary activity is the remediation of contaminated sites. To prove relevant professional experience, the applicant must demonstrate experience in each of the following categories:

Category One: The applicant must demonstrate knowledge of and familiarity with implementing the technical, scientific and regulatory aspects of site remediation, including experience investigating, designing, implementing and/or managing within each phase of the site remediation process:

1. Preliminary Assessment
2. Site Investigation
3. Remedial Investigation
4. Remedial Action

Category Two: The applicant must demonstrate that he has produced, or participated in producing, workplans and/or reports for each phase of the site remediation process.

Category Three: The applicant must demonstrate knowledge of and experience with meeting the Department's administrative requirements; including but not limited to, requirements pertaining to submittal of forms, regulatory and mandatory timeframes, applicable fees, presumptive remedies, remedial action permits and public notification.

"Remediation" or "remediate" means all necessary actions defined as such pursuant to the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-1.8

"Response action outcome" or "RAO" means a written determination by an LSRP as defined in the Administrative Requirements for the Remediation of Contaminated Sites at N.J.A.C. 7:26C-1.3.

"Temporary license" means a license issued by the Department pursuant to N.J.S.A. 58:10C-12 to conduct business as an LSRP in the State. All Temporary Licenses expired or were terminated on or before February 28, 2013.

7:26I-1.4 Construction

These rules shall be liberally construed to permit the Board to discharge its statutory functions.

7:26I-1.5 Severability

If any section, subsection, provision, clause or portion of this chapter is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

SUBCHAPTER 2. LICENSURE

7:26I-2.1 Purpose

(a) A licensing program for site remediation professionals is herein established to ensure that:

1. Individuals seeking licensure as site remediation professionals meet the standards and

requirements for training, education, and experience set forth in N.J.S.A. 58:10C-1 et seq. and any rule or regulation adopted or issued pursuant thereto; and

2. Individuals seeking licensure as site remediation professionals are examined to ensure that they possess sufficient knowledge of the State statutes, rules, guidance, standards and requirements applicable to site remediation and are qualified to obtain a license.

(b) No person shall be, act as, advertise as, or hold himself out to be, or represent himself as being, an LSRP unless that person has been issued a valid license pursuant to N.J.S.A. 58:10C-1 et seq. and the license is current and not expired, suspended, revoked or inactivated by the Board.

7:26I-2.2 Scope

(a) This subchapter contains provisions that govern the:

1. Eligibility requirements for a license in N.J.A.C. 7:26I-2.3;
2. Factors that make an individual ineligible for a license in N.J.A.C. 7:26I-2.3;
3. License application with full credential review and limited credential review in N.J.A.C. 7:26I-2.4 and 2.5;
4. License application contents in N.J.A.C. 7:26I-2.6;
5. Process for review and approval or denial of license applications in N.J.A.C. 7:26I-2.7 through 2.9;
6. Process for examination of approved applicants in N.J.A.C. 7:26I-2.10 and 2.11;
7. Issuance of Licenses in N.J.A.C. 7:26I-2.12;
8. Renewal of Licenses in N.J.A.C. 7:26I-2.13;
9. Expiration of Licenses in N.J.A.C. 7:26I-2.14;
10. Suspension of Licenses in N.J.A.C. 7:26I-2.15;
11. Revocation of Licenses in N.J.A.C. 7:26I-2.16; and
12. Inactivation of Licenses in N.J.A.C. 7:26I-2.17.

7:26I-2.3 Eligibility Requirements

(a) An applicant for a site remediation professional license shall demonstrate to the Board that the applicant:

1. Holds a bachelor's degree or higher in natural, chemical or physical science or an engineering degree in a discipline related to site remediation, from an accredited institution of higher education;
2. Has at least eight years of full-time professional experience, as defined in N.J.A.C. 7:26I-1.3, in the field of site remediation, of which at least five years shall have occurred in New Jersey and at least three years shall have occurred in New Jersey immediately prior to submission of the application;
3. Has a minimum of 5,000 hours of relevant professional experience, as defined in N.J.A.C. 7:26I-1.3, within the State over the five years immediately prior to submission of the application that is of a professional grade and character that indicates the applicant is competent to issue a response action outcome;
4. Has attended and completed the minimum environmental health and safety education and training provided pursuant to 29 C.F.R. Section 1910.120 no more than one year prior to submission of an application for a license;
5. Has attended and completed a course approved by the Department and the Board on the State's rules and regulations concerning the technical requirements for site remediation no more than three years prior to submission of the application;
6. Has not been convicted of, or plead guilty to, an environmental crime, any similar or related criminal offense under federal or state law, or any crime involving fraud, theft by deception, forgery or any similar or related offense under federal or state law; and
7. Has not had a professional license revoked by any state licensing board or any other professional licensing agency within the previous 10 years.

7:26I-2.4 Application with Full Credential Review

(a) An individual seeking to be licensed as a site remediation professional shall file with the Board an LSRP Licensure Application Form with Full Credential Review together with the non-refundable Application Fee as set forth in N.J.A.C. 7:26I-3.

7:26I-2.5 Application with Limited Credential Review

(a) An individual who is seeking to be licensed as a site remediation professional, who has submitted an application with full credential review within the past 12 months that was approved by the Board but is required to resubmit an application in order to re-register for the LSRP examination, shall file with the Board an LSRP Licensure Application Form with Limited Credential Review together with the non-refundable Application Fee as set forth in N.J.A.C. 7:26I-3.

7:26I-2.6 Application Contents

(a) The application shall be in writing on a current form prescribed by the Board, documenting education, training and experience as set forth in N.J.A.C. 7:26I-2.3.

(b) Each application with full credential review shall be accompanied by three letters of reference, in the manner described on the application form, to ensure that the applicant meets the standards and requirements established for training, experience and professional conduct by LSRPs as set forth in N.J.A.C. 7:26I-2.3. The letters of reference shall be from the following persons:

1. At least one letter of reference shall be from an LSRP; and
2. At least one letter of reference shall be from a current or past employer of the applicant from any state.
3. All individuals providing references must attest that the applicant's experience, ability and professional judgment is adequate to allow the applicant to independently and competently design, implement and manage site remediation and issue response action outcomes.

(c) Each application with full credential review shall be accompanied by original transcripts or other documentation issued by the educational institution(s) from which the applicant earned the degree needed to demonstrate the minimum education requirement for licensure. The Board will retain the original documentation.

(d) The following deficiencies shall constitute the basis for return of the application to the applicant:

1. Applications with missing responses;
2. Applications that are not signed;
3. Applications that are not completed according to the instructions; and
4. Applications that are not accompanied by the Application Fee.

7:26I-2.7 Application Review

(a) The Board shall review the application, letters of reference and transcripts submitted by the applicant for substantiation of education, training and experience as set forth in N.J.A.C. 7:26I-2.3.

(b) At any time during its review of an application the Board may require an applicant to appear for a personal interview to discuss the contents of the application.

(c) At any time during its review of an application the Board may require an applicant to

submit additional information related to the applicant's education, training, experience, professional conduct or any other matters deemed relevant by the Board.

(d) At any time during its review of an application the Board may request information about an applicant from the Department, current and former employers or supervisors, educational institutions, or any other third party that may have information relevant to the Board's review of the application.

(e) An applicant may petition the Board for a variance from the eligibility requirements if he believes that extenuating circumstances apply to his application. The Board's Licensure Committee shall consider the petition and recommend to the Board whether a variance should be granted.

7:26I-2.8 Application Approval

(a) The Board shall approve a complete application within 60 days of receipt of all requisite content if the applicant meets the standards and requirements established for education, training, experience and professional conduct as set forth in N.J.A.C. 7:26I-2.3.

(b) The Board shall notify the individual whose application is approved that he is a candidate for the LSRP examination. Such notification shall provide the candidate with the information needed to register for the next scheduled LSRP examination.

7:26I-2.9 Application Denial

(a) The Board shall deny an application if the applicant fails to meet any of the standards and requirements established for education, training, experience and professional conduct as set forth in N.J.A.C. 7:26I-2.3.

(b) Each application denial shall specify the time period that must pass before the applicant may reapply for a license. Such time period shall not exceed three years, except:

1. If the individual whose application is denied is found by the Board to have violated N.J.S.A.10C-7d(6) (criminal conviction), that individual's application denial will be held by the Board to be permanent, and therefore, he may not reapply; and

2. If the individual whose application is denied is found by the Board to have violated N.J.S.A.10C-7d(7) (revocation of other professional licenses), he may not reapply until 10 years have elapsed from the time of the revocation of another professional license.

(c) An applicant whose application has been denied by the Board may appeal the Board's decision pursuant to N.J.A.C. 7:26I-8. Notice shall be provided to an applicant upon the Board's decision to deny his license application. The notice shall be by certified mail or personal service, and shall:

1. State the Board's findings and reasons for denial of the application;

2. Affirm the right of the individual to a hearing on any matter contained in the notice and the procedures for requesting a hearing; and

3. Enclose a copy of the Board Administrative Hearing Request Checklist.

7:26I-2.10 Examination

(a) Candidates registering for the LSRP examination will be provided with an LSRP Examination Candidate Agreement. In order to take the examination each candidate shall be required to certify that he has read the LSRP Examination Candidate Agreement and agrees to abide by its terms.

(b) The violation by a candidate of the LSRP Examination Candidate Agreement at any time before, during or after the examination shall constitute grounds for commencement of disciplinary action pursuant to N.J.A.C. 7:26I-7.1 et seq. Disciplinary action taken by the Board may include invalidation of the exam results and disqualification from future examinations for a specified period of time or permanently.

7:26I-2.11 Completion of the Examination

(a) The Board shall communicate the results of the examination to each candidate. Examination papers shall not be returned to the candidate.

(b) The Board shall publish the names of successful candidates on the Board Website.

(c) A candidate for the LSRP examination who does not pass the examination may submit an application to take the examination again pursuant to N.J.A.C. 7:26I-2.5. If more than one year has passed since the submittal of an application with full credential review, the candidate must submit an application to take the examination again pursuant to N.J.A.C. 7:26I-2.4.

7:26I-2.12 Issuance of Licenses

(a) The Board shall issue a non-transferable license to each candidate who successfully completes the examination.

(b) Upon the issuance of the license, the LSRP's name and contact information shall be added to the list of LSRPs maintained on the Board Website. LSRPs shall keep the Board updated as to their contact information, so that the Board may maintain current and accurate contact information on the Board Website.

(c) An Annual License Fee as set forth in N.J.A.C. 7:26I-3 shall be due and payable by the LSRP within 30 days of the effective date of the license. LSRPs who fail to pay the annual license fee within 90 days of the date of the invoice shall be subject to disciplinary proceedings and penalties pursuant to N.J.A.C. 7:26I-7.1 et seq.

(d) A license shall be effective on the date specified on the license, and shall expire at the end of the day on the expiration date specified on the license.

7:26I-2.13 Renewal of Licenses

(a) In order to continue to be, act as, advertise as, or hold himself out to be, or represent himself as being an LSRP, an LSRP must renew his license prior to the expiration date of the license.

(b) To apply to renew a license, an LSRP shall:

1. Submit an application for license renewal at least 90 days and no more than 120 days prior to expiration of the license using an application form provided by the Board on the Board Website;

2. If a fee has been set by the Board, include with such application form the full amount of the non-refundable License Renewal Fee as set forth in N.J.A.C. 7:26I-3;

3. Demonstrate pursuant to 29 CFR 1910.120, that he has attended and completed an 8-hour health and safety refresher course no more than one year prior to submission of an application for a license renewal;

4. Demonstrate that he has fulfilled the continuing education requirements set forth N.J.A.C. 7:26I-4;

5. Certify that he has not been convicted of, or plead guilty to, an environmental crime, any similar or related criminal offense under federal or state law, or any crime involving fraud, theft by deception, forgery or any similar or related offense under federal or state law; and

6. Certify that he has not had a professional license revoked by any state licensing board or any other professional licensing agency within the previous 10 years.

(c) The Board shall issue a renewed non-transferable license to each applicant whose application for renewal is approved by the Board. The renewed license shall have an effective date and expiration date.

(d) The Board shall deny an application for renewal if the applicant fails to meet any of the standards and requirements set forth in N.J.A.C. 7:26I-2.13(b).

(e) Each application denial shall specify the time period that must pass before the applicant may reapply for license renewal, such time period not to exceed three years, except:

1. If the individual whose application is denied is found by the Board to have violated N.J.S.A.10C-7d(6) (criminal conviction) that individual's application denial will be held by the Board to be permanent, and therefore, he may not reapply; and

2. If the individual whose application is denied is found by the Board to have violated N.J.S.A.10C-7d(7) (revocation of other professional licenses) he may not reapply until 10 years have elapsed from the time of the revocation of another professional license.

(f) An applicant whose application for license renewal has been denied by the Board may appeal the Board's decision pursuant to N.J.A.C. 7:26I-8. Notice shall be provided to an applicant upon the Board's decision to deny his application for license renewal. The notice shall be by certified mail or personal service, and shall:

1. State the Board's findings and reasons for denial of the application;
2. Affirm the right of the individual to a hearing on any matter contained in the notice and the procedures for requesting a hearing; and
3. Enclose a copy of the Board Administrative Hearing Request Checklist.

7:26I-2.14 Expiration of Licenses

(a) A license that is not renewed by the date of its expiration shall expire. An individual with an expired license shall not be, act as, advertise as, or hold himself out to be, or represent himself as being, an LSRP until the license has been renewed pursuant to N.J.A.C. 7:26I-2.13.

(b) An LSRP whose license has expired may apply for renewal of the license pursuant to N.J.A.C. 7:26I-2.13 within one calendar year of the expiration date of the license.

(c) An LSRP whose license has been expired for more than one year may not apply for renewal of the license pursuant to N.J.A.C. 7:26I-2.13 but must apply for a new license pursuant to N.J.A.C. 7:26I-2.4 and must successfully complete the LSRP examination pursuant to N.J.A.C. 7:26I-2.10.

7:26I-2.15 Suspension of Licenses

(a) Whenever, on the basis of available information, the Board finds that an LSRP has violated N.J.S.A. 58:10C-1 et seq. or any rule, regulation, code of conduct or order adopted or issued pursuant thereto, or has knowingly made any false statement, representation, or certification in any documents or information required to be submitted to the Board or the Department, the Board may suspend the license of the site remediation professional.

(b) Suspension is temporary removal of a license. An individual with a suspended license shall not be, act as, advertise as, or hold himself out to be, or represent himself as being, an LSRP until the end of the period of suspension.

(c) An individual may resume practicing as an LSRP immediately following the last day of the suspension period if his license expiration date has not yet been reached.

(d) An individual must apply to renew his license prior to resuming practice as an LSRP if the period of suspension ends after the expiration date of his license. The license may be renewed within one year of the license expiration date or the end of the license suspension period, whichever is later, according to the procedures in N.J.A.C. 7:26I-2.13.

(e) An individual that fails to renew his license within one year of the license expiration date or the end of the license suspension period, whichever is later, must apply for a new license pursuant to N.J.A.C. 7:26I-2.4 and must successfully complete the LSRP examination pursuant to N.J.A.C. 7:26I-2.10 prior to resuming practice as an LSRP.

(f) When issuing the suspension, the Board may impose conditions on the reinstatement of a license; including, but not limited to, a requirement for additional continuing education credits beyond the requirements of N.J.A.C. 7:26I-4.

(g) Any order issued by the Board suspending or revoking a license shall order the LSRP to maintain and preserve records regarding the LSRP's remediation activities at contaminated sites pursuant to N.J.A.C. 7:26I-6.25 for a time period to be specified in the order.

(h) Within 15 days of the suspension the LSRP shall notify the Department and the persons responsible for conducting remediation by whom he has been retained of the fact of the suspension of his license, the cessation of his activities as an LSRP and the termination of his status as an LSRP during the suspension period.

(i) The Board shall maintain a list of all site remediation professionals whose licenses have been suspended or revoked and shall publish the list on the Board's website.

(j) An LSRP whose license has been suspended has the right to notice and a hearing pursuant to N.J.A.C. 7:26I-8.4 and N.J.A.C. 7:26I-8.5.

7:26I-2.16 Revocation of Licenses

(a) Whenever, on the basis of available information, the Board finds that an LSRP has violated N.J.S.A. 58:10C-1 et seq. or any rule, regulation, code of conduct or order adopted or issued pursuant thereto, or has knowingly made any false statement, representation, or certification in any documents or information required to be submitted to the Board or the Department, the Board may revoke the license of the site remediation professional.

(b) Revocation is removal of a license. An individual with a revoked license shall not be, act as, advertise as, or hold himself out to be, or represent himself as being, an LSRP.

1. An individual whose license has been revoked one time may apply for a new license and must meet all requirements for licensure as set forth in N.J.A.C. 7:26I-2.3 through 2.4.

2. Upon the second revocation of a license, an LSRP shall be permanently prohibited from applying for a site remediation professional license in New Jersey.

(c) If the person whose license is revoked is found by the Board to have violated N.J.S.A.10C-7d(6) (criminal conviction), that person's license revocation will be held by the Board to be permanent, and therefore, he may not re-apply and the license will not be reinstated.

(d) If the person whose license is revoked is found by the Board to have violated N.J.S.A. 10C-7d(7) (revocation of other professional licenses), his site remediation professional license may not be reinstated until 10 years have elapsed from the time of the revocation of another professional license. In that event, he may re-apply for a license 10 years from the date of the prior revocation.

(e) Upon a determination of the Board that the conduct of the LSRP is so egregious as to pose an imminent threat to public health, safety or the environment if the LSRP is allowed to conduct remediation of sites or areas of concern pending a hearing on a revocation of the license, the Board may suspend the license prior to the outcome of the hearing.

(f) Any order issued by the Board suspending or revoking a license shall order the LSRP to maintain and preserve records regarding the LSRP's remediation activities at contaminated sites pursuant to N.J.A.C. 7:26I-6.25 for a time period to be specified in the order.

(g) Within 15 days of the revocation the LSRP shall notify the Department and the persons responsible for conducting remediation by whom he has been retained of the fact of the revocation of his license, the cessation of his activities as an LSRP and the termination of his status as an LSRP.

(h) The Board shall maintain a list of all LSRPs whose licenses have been suspended or revoked and shall publish the list on the Board's website.

(i) An LSRP whose license has been revoked has the right to notice and a hearing pursuant to N.J.A.C. 7:26I-8.4 and N.J.A.C. 7:26I-8.5.

7:26I-2.17 Inactivation of Licenses

(a) An LSRP may discontinue providing professional services as an LSRP and request inactivation of his license by notifying the Board utilizing the form provided on the Board Website.

(b) Valid grounds for requesting inactive status shall include, but not be limited to:

1. Unemployment or financial hardship;
2. Pursuit of full-time degree;
3. Extended medical or family leave of absence;

4. Active duty in the armed forces; or

5. Retirement.

(c) The Board shall:

1. Acknowledge receipt of the request;

2. Certify the inactivation; and

3. Remove the LSRP's name from the Board's official list of active LSRPs and place his name on the list of inactive LSRPs.

(d) Upon the inactivation of his license by the Board, the LSRP shall:

1. Within 15 days notify the Department and the persons responsible for conducting remediation by whom he has been retained of the fact of the inactivation of his license and the cessation of his activities as an LSRP;

2. Provide for his obligations regarding the maintenance and preservation of records of his remediation activities at contaminated sites pursuant to N.J.A.C. 7:26I-6.25; and

3. Cease to be, act as, advertise as, or hold himself out to be, or represent himself as being, an LSRP.

(e) An LSRP whose license has been inactivated shall not be required to pay the annual license fee pursuant to N.J.A.C. 7:26I-2.10(b). However, upon reactivation, the LSRP shall pay a prorated fee for the remainder of the year in which the reactivation occurs.

(f) An LSRP may reactivate his license prior to its expiration date by utilizing the form provided on the Board Website.

(g) An LSRP may reactivate his license after its expiration date by following the procedures for license renewal in N.J.A.C. 7:26I-2.13.

SUBCHAPTER 3. FEES

7:26I-3.1 Purpose

(a) This subchapter specifies the fees and the methodology for the calculation of fees to support the administration of the licensed site remediation professional program of the Site Remediation Reform Act.

(b) The specific fees covered in this subchapter are the application fee, license renewal fee and annual license fee.

7:26I-3.2 Scope

(a) This subchapter contains provisions that specify:

1. The factors the Board uses to calculate the application fees in N.J.A.C. 7:26I-3.3;
2. The factors the Board uses to calculate the license renewal fee in N.J.A.C. 7:26I-3.4;
3. The factors the Board uses to calculate the annual license fee in N.J.A.C. 7:26I-3.5;
4. Requirements for the Annual Site Remediation Professional Licensing Board Fee Calculation Report and the payment of fees in N.J.A.C. 7:26I-3.6.

7:26I-3.3 Application Fees

(a) The Board shall recalculate, if determined necessary based on the complexity of application reviews or other factors, the application fees for the upcoming calendar year as of the November 1 that precedes the upcoming calendar year as follows:

1. The Board shall calculate the application fee with full credential review by multiplying the average number of hours to conduct a full credential review by the projected hourly salary and overhead costs for Department or Board staff to conduct the review. For calendar year 2014, the application fee shall be \$400 for applications requiring full credential review.
2. The Board shall calculate the application fee with limited credential review by multiplying the average number of hours to conduct a limited credential review by the projected hourly salary and overhead costs for Department or Board staff to conduct the review. For calendar year 2014, the application fee shall be \$50 for applications requiring limited credential review.

7:26I-3.4 License Renewal Fee

(a) The Board may institute a license renewal fee for the upcoming calendar year.

(b) Should the Board institute a license renewal fee for the upcoming calendar year, the Board shall calculate the license renewal fee for the upcoming calendar year as of the November 1 that precedes the upcoming calendar year as follows:

1. The Board shall calculate the license renewal fee by multiplying the average number of hours to conduct a credential review for license renewal by the projected hourly salary and overhead costs for Department or Board staff to conduct the review.

7:26I-3.5 Annual License Fee

(a) The Board shall calculate the annual license fee for the upcoming calendar year as of the

November 1 that precedes the upcoming calendar year as follows:

1. The Board shall set its budget by determining the dollar amount needed to accomplish all tasks associated with administering the licensed site remediation professional program of the Site Remediation Reform Act. Such tasks include, but are not limited to:

- i. Administration of the program;
- ii. Legal support of the program;
- iii. Development and maintenance of data systems;
- iv. Development and maintenance of the Board Website;
- v. Development and administration of LSRP examinations; and
- vi. Any additional tasks identified by the Board.

2. The Board shall project the collection amounts anticipated in the upcoming calendar year from application fees and license renewal fees;

3. The Board shall subtract the projected collection amounts from the projected budget as calculated in (a)1 above, and divide the result by the number of LSRPs holding licenses in the previous calendar year, rounding up to the nearest tenth dollar; or

4. If the number of LSRPs holding licenses in the previous calendar year is projected to significantly change in the upcoming calendar year, the Board shall subtract the projected collection amounts from the projected budget as calculated in (a) 1 above, and divide the result by the number of LSRPs projected to be holding licenses in the upcoming calendar year, rounding up to the nearest tenth dollar.

5. The final annual license fee may be adjusted by incorporating any shortfalls or surpluses from the previous calendar year.

6. For calendar year 2014, the annual license fee shall be \$900.

(b) The Board shall invoice each LSRP for the annual license fee on or about November 1 of each year.

(c) LSRPs who fail to pay the annual license fee within 90 days of the date of the invoice shall be subject to disciplinary proceedings and penalties pursuant to N.J.A.C. 7:26I-7.1 et seq.

7:26I-3.6 Fee Report and Payment of Fees

(a) Each year, the Board shall prepare an Annual Site Remediation Professional Licensing Board Fee Calculation Report in which it shall include the factors used to calculate each fee in

this subchapter.

(b) Beginning October 2014 and each October thereafter, the Board shall publish in the New Jersey Register a notice that includes a summary of the Annual Site Remediation Professional Licensing Board Fee Calculation Report and the Board's budget, and will post this information on the Board Website.

(c) Payment of fees shall be by either:

1. E-check or credit card after the Board posts a notice for either on the Board Website;
or
2. Certified check, attorney check, money order, or personal check made payable to "Treasurer, State of New Jersey"; and
3. By mailing payments to the following address unless otherwise indicated on the first page of a billing invoice:

New Jersey Site Remediation Professional Licensing Board
c/o NJDEP Site Remediation Program
P.O. Box 420
Mail Code 401-05A
Trenton, NJ 08625-0420

SUBCHAPTER 4. CONTINUING EDUCATION

7:26I-4.1 Purpose

- (a) Pursuant to the authority granted at N.J.S.A. 58:10C-5, this subchapter describes the mandatory continuing education program established by the Board.
- (b) This subchapter contains the continuing education requirements to be met by an LSRP during the term of his license in order to renew a license.
- (c) This subchapter also contains the basic design of the program to approve continuing education.

7:26I-4.2 Scope

- (a) This subchapter contains provisions that govern the:
 1. Requirements for Continuing Education of LSRPs at N.J.A.C. 7:26I-4.3;
 2. Board approval of educational courses as Continuing Education at N.J.A.C. 7:26I-4.4;and

3. Board Approval of educational activities as Continuing Education at N.J.A.C. 7:26I-4.5

7:26I-4.3 Requirements for Continuing Education of LSRPs

(a) Every LSRP shall complete thirty-six (36) Continuing Education Credits (“CEC”s) during the three year term of his license.

(b) All CECs shall be earned by attending or participating in continuing education approved by the Board.

(c) The thirty-six (36) CECs shall be allocated as follows:

1. Three (3) CECs in ethics education;
2. Ten (10) CECs in regulatory education;
3. Fourteen (14) CECs in scientific and technical education; and

4. The balance of the remaining thirty-six (36) required CECs may be in any of the above areas of education.

(d) An LSRP may not earn CEC by attending the same educational course more than once during each three-year license term, unless the educational course is approved by the Board as an annual update on areas of knowledge that are subject to frequent revision such as technical standards or regulations.

(e) No LSRP may apply Continuing Education Credits earned during one license period toward another license period, with the following exception: an LSRP with a temporary license may apply the CECs he earned during the one year prior to receiving his permanent license toward the first term of his permanent license.

(f) It is the responsibility of the LSRP to track fulfillment of the Continuing Education requirements described in this Subchapter and to demonstrate fulfillment of Continuing Education requirements when applying for license renewal.

(g) The Board may from time to time require all LSRPs to take a specific educational course in fulfillment of their CEC requirements.

(h) Courses taken through alternative verifiable learning formats, if approved for Continuing Education Credit, shall account for no more than 18 CECs per license term.

7:26I-4.4 Board Approval of Educational Courses as Continuing Education

(a) The Board shall approve continuing education consisting of educational courses that satisfy, at a minimum, the following standards:

1. The continuing education shall have significant intellectual, educational or practical content;
2. The continuing education shall have as its primary purpose to increase each participant's professional competence as a site remediation professional;
3. The continuing education shall constitute an organized program of learning dealing with matters related to the regulation of site remediation, scientific and technical principles of site remediation, and/or the ethical obligations of site remediation professionals;
4. The continuing education shall be developed and conducted by a person or persons the Board deems qualified based on practical and academic experience; and
5. The continuing education approved for ethics credit shall have educational content that is designed to maintain or enhance the site remediation professional's understanding of the tenets of ethical conduct with respect to the provision of professional services as an LSRP in New Jersey. Approvable ethics credit shall include education regarding the differences between ethical and unethical behavior and should incorporate the code of conduct of LSRPs found in the Site Remediation Reform Act with direct examples of situations that LSRPs may face during performance of their duties at sites in New Jersey.
6. The continuing education approved for regulatory credit shall have educational content designed to maintain or enhance the ability of site remediation professionals to competently perform, supervise, and coordinate response actions in New Jersey in compliance with applicable regulatory requirements. Approvable regulatory credit shall include education regarding understanding and complying with the broad range of legal and regulatory requirements applicable to the provision of site remediation services in New Jersey.
7. The continuing education approved for scientific and technical credit shall have educational content that is designed to maintain or enhance the ability of site remediation professionals to competently perform, supervise and coordinate the scientific and technical components of response actions in New Jersey. Approvable scientific and technical credit shall include education regarding performing response actions, although it may include more general scientific and technical principles if they are clearly relevant to the scientific and technical components of response actions at sites in New Jersey.

(b) Board approval of continuing education may be sought by the provider or an LSRP.

(c) The request for approval must include the information on the continuing education approval checklist, which is found on the Board Website. Such information shall include, but is not limited to:

1. The number and type of CECs requested:

2. The date(s), time(s) and location(s) of the continuing education;
 3. A written outline or syllabus of the continuing education content;
 4. A written statement describing the continuing education and establishing its relevance to regulation of site remediation, scientific and technical principles of site remediation, and/or ethical obligations of site remediation professionals in New Jersey;
 5. The credentials of the instructors;
 6. A statement that the provider will maintain records of attendance for a period of seven years and that certificates of attendance shall be provided to all attendees within thirty days of successful completion of the continuing education;
 7. A statement that the provider will follow the outline or syllabus;
 8. A statement that the provider will, at the completion of the continuing education, conduct and retain for the Board's inspection for a period of three years an evaluation of the continuing education and the continuing education instructor(s) using, at a minimum, evaluations prepared confidentially by the attendees and maintained in such a manner that the identity of each evaluator is not disclosed to the provider or instructors; and
 9. Any other information which the Board requests of the continuing education provider or person requesting approval of the continuing education to demonstrate compliance with the provisions set forth herein.
- (d) Once approved, the Board shall then determine the number and type(s) of CECs that the continuing education shall provide based on the information provided and reviewed by the Board.
- (e) Any approved continuing education must be open to monitoring by the Board or its authorized representatives, without charge or need for advance registration or notice.
- (f) The provider of the continuing education must conduct and retain for the Board's inspection for a period of three years an evaluation of the continuing education and the continuing education instructor(s) using, at a minimum, evaluations prepared confidentially by the attendees and maintained in such a manner that the identity of each evaluator is not disclosed to the provider or instructors.
- (g) Sign-in/sign-out sheets designating attendance at approved continuing education shall be maintained by the provider thereof for seven years, and certificates of attendance shall be provided to all attendees within thirty days of successful completion of the continuing education. Attendance records shall be provided to the Board at its request.

(h) A Board approved alternative verifiable learning format course shall include an examination that must be successfully completed by an LSRP in order to receive CECs for attending the alternative verifiable learning format course.

(i) A list of Board approved continuing education and the assigned CECs will be posted on the Board Website and this list will be updated as new continuing education is approved by the Board.

7:26I-4.5 Board Approval of Instructional Activities as Continuing Education

(a) An LSRP may request the Board's approval for CECs for preparing for and instructing a Board-approved continuing education course.

1. The request must be made no later than 90 days after the date of the course, and shall include the information on the continuing education approval checklist, which is found on the Board Website. Such information shall include, but is not limited to:

- a. A full description of the course including the date, name of the provider and location;
- b. A written outline or syllabus of the continuing education content;
- c. The number and type of CECs requested;
- d. The credentials of the LSRP; and
- e. Any other information which the Board requests of the LSRP to demonstrate compliance with the provisions set forth herein.

(b) An LSRP may request the Board's approval for CECs for preparing for and giving a presentation.

1. The request must be made no later than 90 days after the date of the presentation, and shall include the information on the presentation approval checklist, which is found on the Board Website. Such information shall include, but is not limited to:

- a. A full description of the presentation, including date, name of the provider and location;
- b. A copy of the presentation;
- c. The number and type of CECs requested;
- d. The credentials of the LSRP; and

e. Any other information which the Board requests of the LSRP to demonstrate compliance with the provisions set forth herein.

(c) An LSRP may request the Board's approval for CECs for authoring a paper published in a scholarly publication or peer reviewed proceedings of a conference.

1. The request must be made no later than 90 days after the date of publication, and shall include the information listed on the publication approval checklist, which is found on the Board Website. Such information may include, but is not limited to:

- a. A full description of the journal or proceedings;
- b. A copy of the paper
- c. The date of publication;
- d. The number and type of CECs requested;
- e. The credentials of the LSRP; and
- f. Any other information which the Board requests of the LSRP to demonstrate compliance with the provisions set forth herein.

(d) Once approved, the Board shall then determine the number and type(s) of CECs that the LSRP shall be granted based on the information in the submitted checklist and any additional information reviewed by the Board.

SUBCHAPTER 5. AUDIT PROCEDURES

7:26I-5.1 Purpose

(a) The auditing of the submissions and conduct of LSRPs is a means to ensure that LSRPs' highest priority in the performance of professional services is the protection of public health and safety and the environment.

(b) The Site Remediation Reform Act at N.J.S.A. 58:10C-24 requires the Board to audit annually the submissions and conduct of at least 10 percent of the total number of LSRPs.

(c) This subchapter sets forth the Board's procedures for conducting audits, and it establishes the audit compliance requirements for LSRPs.

(d) The auditing of the submissions and conduct of LSRPs by the Board is separate and distinct from the Department's inspection of documents and information submitted by an LSRP and review of the performance of remediations pursuant to N.J.S.A. 58:10C-21.

7:26I-5.2 Scope

(a) This subchapter contains provisions that govern the:

1. Process for the selection of LSRPs to be audited by the Board at 7:26I-5.3;
2. Audit review process to be followed by the Board at 7:26I-5.4;
3. Outcome of an audit at 7:26I-5.5; and
4. Failure to cooperate with an audit at 7:26I-5.6.

7:26I-5.3 Selection of LSRPs to be Audited

- (a) The Board shall calculate the number of LSRPs to be audited each calendar year.
- (b) The number of LSRPs audited each calendar year shall be equal to at least 10 percent of the total number of LSRPs.
- (c) The Audit Committee of the Board shall oversee the selection, using a random process, of the specific LSRPs who are to be audited.
- (d) The names of the LSRPs to be audited will be known only to the members of the Audit Review Team and to the Board staff assisting in the audit. The names shall not be made public at the time of the audit selection.
- (e) The number of audits conducted shall be distributed throughout the calendar year to satisfy the total for the year.
- (f) LSRPs who are under investigation by the Board pursuant to N.J.A.C. 7:26I-7 et seq. shall be exempt from audits until such time as the investigation is complete.
- (g) An LSRP shall be audited no more than once per calendar year.

7:26I-5.4 Audit Review Process

- (a) An Audit Review Team (“ART”) with two or more Board Members, consisting of at least one Board Member who is not an LSRP, shall be established by the Audit Committee to oversee the audit process.
- (b) A special ART shall be assembled for audits of LSRPs who are Board Members which shall consist of:
 1. The Chairperson of the Board;
 2. One Board Member who is not an LSRP that represents the environmental community;

3. One Board Member who is not an LSRP that represents the business community; and
4. One Board Member who is an LSRP.

(c) Upon the convening of an ART for the audit, the Board staff shall advise the ART of the identities of the LSRPs to be audited.

(d) Board Members are obligated to follow the conflict of interest provisions enumerated in the New Jersey Conflict of Interest Law, the State Ethics Commission Regulations and the Board's By-Laws adopted on January 10, 2011. These provisions require Members of the Board to recuse themselves in the event of a conflict of interest.

(e) Following the selection of LSRPs to be audited, the Board Secretary shall notify the subjects of the audits of the commencement of the audits. The notification letter shall be delivered by certified mail or personal service and shall include:

1. A request for a response to the audit requirements; and
2. Any additional documentation requested in the audit requirements.

(f) The ART may direct requests for information to persons responsible for conducting remediation on sites that the LSRP has worked on and any other third parties, including the Department, that may have information concerning the LSRP and any sites that the LSRP has worked on.

(g) The LSRP and persons responsible for conducting remediation on sites that the LSRP has worked on shall cooperate with the Board in the conduct of the audit and shall provide any information requested by the Board as part of the audit.

(h) The ART will review the submissions and conduct of the LSRP to ensure that:

1. The LSRP's conduct in the performance of professional services has complied with the standards of professionalism set forth by the Site Remediation Reform Act, N.J.S.A. 58:10C et seq. or any rule, regulation, code of conduct or order adopted or issued pursuant thereto;
2. The LSRP has not knowingly made any false statement, representation, or certification in any documents or information required to be submitted to the Board or the Department; and
3. The LSRP's highest priority in the performance of professional services has been the protection of public health and safety and the environment .

7:26I-5.5 Outcome of an Audit

(a) Upon conclusion of its audit review, the ART shall make a determination whether the LSRP's submissions and conduct have met the standards in N.J.A.C. 7:26I-5.4(h).

(b) Upon a determination by the ART that the LSRP's submissions and conduct have met the standards in N.J.A.C. 7:26I-5.4(h), the ART shall submit a report to the Audit Committee of the Board stating the LSRP's name, its findings and a recommendation that the audit is complete.

1. Upon receipt of a recommendation that the audit is complete, the Audit Committee shall determine whether to conclude the audit, or refer the audit back to the ART for further review.

2. Upon a determination that the audit is complete and concluded, the Audit Committee shall report to the Board the name of the LSRP whose audit is complete and concluded.

3. The Board shall notify the LSRP in writing of the outcome of the audit, and post the LSRP's name and audit outcome on the Board Website.

(c) Upon a determination by the ART that the LSRP's submissions and conduct have not, or may have not, met the standards in N.J.A.C. 7:26I-5.4(h), the ART shall submit a report to the Audit Committee of the Board stating its findings and a recommendation for further investigation.

(d) Upon receipt of a report by the ART recommending further investigation, the Audit Committee of the Board shall refer the audit to the Professional Conduct Committee of the Board which shall convene a Complaint Review Team to commence an investigation pursuant to N.J.A.C. 7:26I-7.5.

7:26I-5.6 Failure to Cooperate with Audit

(a) The LSRP and persons responsible for conducting remediation on sites that the LSRP has worked on shall cooperate with the Board in the conduct of the audit and shall provide any information requested by the Board as part of the audit.

(b) Failure to cooperate with the Board in the conduct of the audit shall be the grounds for commencement of disciplinary action pursuant to N.J.A.C. 7:26I-7.1 et seq.

SUBCHAPTER 6. RULES OF PROFESSIONAL CONDUCT

7:26I-6.1 Purpose

(a) This subchapter sets forth the code of conduct that shall be followed by all LSRPs in the performance of professional services so as to achieve the expected standard of professionalism. The failure to abide by this code of conduct shall constitute the grounds for disciplinary action, including suspension or revocation of a license, pursuant to N.J.A.C. 7:26I-7.

(b) At all times, in the performance of professional services, an LSRP's highest priority shall be the protection of public health and safety and the environment.

7:26I-6.2 Professional Competency

(a) An LSRP shall exercise reasonable care and diligence, and shall apply the knowledge and skill ordinarily exercised by LSRPs in good standing practicing in the State at the time the services are performed.

(b) An LSRP shall not provide professional services outside his areas of professional competency, unless the LSRP has relied upon the technical assistance of another professional whom the LSRP has reasonably determined to be qualified by education, training, and experience.

7:26I-6.3 Engineering Services

(a) An LSRP shall not perform services that constitute the practice of professional engineering unless the LSRP is a professional engineer licensed in the State.

7:26I-6.4 Notification of Retention and Release

(a) An LSRP retained by a person responsible for conducting the remediation shall notify the Department within 15 days after being retained. In addition, an LSRP shall notify the Department within 15 days after being released from responsibility for a remediation if the release occurs prior to issuance of the response action outcome for the site by the LSRP.

(b) In the circumstance where an LSRP decides to terminate his position as LSRP of record on a site, the LSRP must notify the Department pursuant to (a) above, as well as the person responsible for conducting the remediation, within 15 days.

7:26I-6.5 Correcting Deficiencies

(a) An LSRP and the person responsible for conducting the remediation shall correct any deficiency the Department identifies in a document submitted concerning a remediation. The deficiency shall be corrected in accordance with timeframes established by the Department.

7:26I-6.6 Responsibility of Successor LSRP

(a) An LSRP may complete any phase of remediation based on remediation work performed under the supervision of another LSRP, provided that the LSRP:

1. reviews all available documentation on which he relies;
2. conducts a site visit to observe current conditions and to verify the status of as much of the work as is reasonably observable; and

3. concludes, in the exercise of his independent professional judgment, that there is sufficient information upon which to complete any additional phase of remediation and prepare workplans and reports related thereto.

(b) An LSRP who has taken over the responsibility for the remediation of a contaminated site from another LSRP shall address all deficiencies in a document submitted by the previous LSRP, including but not limited to those identified by the Department, in accordance with timeframes established by the Department.

(c) An LSRP who has taken over the responsibility for the remediation of a contaminated site from another LSRP before the issuance of a response action outcome, and who learns of material facts, data or other information concerning a phase of the remediation for which a report was submitted to the Department and the material facts, data or other information were not disclosed in the report, shall promptly notify the client and the Department in writing of those material facts, data or other information.

7:26I-6.7 Criteria for Certifying a Document

(a) An LSRP shall not certify any document submitted to the Department unless the LSRP has managed, supervised or performed the work that is the basis of the submission, or has periodically reviewed and evaluated the work performed by other persons that forms the basis for the information in the submission, or has completed the work of another LSRP and has concluded such work is reliable pursuant to N.J.A.C. 7:26I-6.6.

7:26I-6.8 Exercise of Independent Professional Judgment

(a) An LSRP shall exercise independent professional judgment, comply with the requirements and procedures set forth in the provisions of N.J.S.A. 58:10C-1 et seq. and any regulations promulgated pursuant thereto. An LSRP shall make a good faith and reasonable effort to identify and obtain the relevant and material facts, data, reports and other information evidencing conditions at a contaminated site for which he is responsible in possession of the owner of the property, or otherwise available, and identify and obtain whatever additional data and other information as the LSRP deems necessary.

(b) An LSRP shall disclose and explain in any document submitted to the Department any facts, data, information, qualifications, or limitations known by the LSRP that are not supportive of the conclusions reached in the document.

7:26I-6.9 Responsibility to Report an Immediate Environmental Concern

(a) If an LSRP identifies a condition at a contaminated site that in his independent professional judgment is an immediate environmental concern, then the LSRP shall:

1. Immediately verbally advise the person responsible for conducting the remediation of that person's duty to notify the Department of the condition; and

2. Immediately notify the Department of the condition by calling the Department's telephone hotline (1-877-WARNDEP).

7:26I-6.10 Responsibility to Report a Discharge

(a) If an LSRP obtains specific knowledge that a discharge has occurred on a contaminated site for which he is responsible, the LSRP shall:

1. Notify the person responsible for conducting the remediation of the existence of the discharge; and

2. Notify the Department of the discharge by calling the Department's telephone hotline (1-877-WARNDEP).

(b) An LSRP is considered to be responsible for a contaminated site if he has been hired by a person responsible for conducting the remediation at that site.

(c) In addition to the requirement in (a) above, an LSRP that is working under the direction of an LSRP that has been hired by a person responsible for conducting the remediation at a contaminated site is responsible for notifying the LSRP whose direction he is under of the existence of the discharge.

(d) The provisions of this section shall not apply to an LSRP who has been hired by any person who:

1. does not own the contaminated site;

2. conducts a preliminary assessment or site investigation of the contaminated site for the purpose of conducting all appropriate inquiry into the previous ownership and uses of the property as provided in N.J.S.A. 58:10-23.11(g), and

3. has not discharged a hazardous substance at the site or is not in any way responsible for a hazardous substance discharged at the site pursuant to N.J.S.A. 58:10-23.11(g).

(e) The person responsible for conducting the remediation shall also be responsible for notifying the Department of the existence of the discharge.

(f) The provisions of this section shall not apply to a discharge that may be a result of the existence of historic fill material.

7:26I-6.11 Deviation from Workplan by Client

(a) If an LSRP learns of an action or decision by a client that results in a deviation from the remedial action workplan or other report concerning the remediation developed by the LSRP, the LSRP shall promptly notify the client and the Department, in writing, of the deviation.

7:26I-6.12 Client Confidentiality

(a) An LSRP shall not reveal information obtained in a professional capacity, except as may be authorized or required by law, without the prior consent of the client, if the client has notified the LSRP, in writing, that the information is confidential. The provisions of this subsection shall not apply to information that is in the public domain.

7:26I-6.13 New Information after Submitting Report

(a) An LSRP who learns of material facts, data or other information subsequent to the completion of a report concerning a phase of remediation, which would result in a report with material differences from the report submitted, shall promptly notify the client and the Department in writing of those facts, data, information, and circumstances.

7:26I-6.14 Responsibility of LSRP to Disassociate from Unscrupulous Persons

(a) An LSRP shall not allow the use of his name by a person, and shall not associate with a person in a business venture, if the LSRP knows or should know that the person engages in fraudulent or dishonest business or professional practices regarding the professional responsibilities of an LSRP.

7:26I-6.15 Responsibility of LSRP in Board and Department Investigations

(a) An LSRP shall cooperate in an investigation by the Board or the Department by promptly furnishing, in response to requests, orders or subpoenas, any information the Board or the Department, or persons duly authorized by the Board or the Department, deems necessary to perform its duties. In an investigation by the Board of a license application or a license suspension or revocation, an LSRP shall not:

1. Knowingly make a false statement of material fact;
2. Fail to disclose a fact necessary to correct a material misunderstanding known by the LSRP to have arisen in the matter;
3. Knowingly and materially falsify, tamper with, alter, conceal, or destroy any document, data record, remedial system, or monitoring device that is relevant to the investigation, without obtaining the prior approval of the Department; or
4. Knowingly allow or tolerate any employee, agent, or contractor of the LSRP to engage in any of the foregoing activities.

7:26I-6.16 Circumstances under which Supervising LSRP Is Held Responsible for Subordinate LSRP

(a) An LSRP shall be jointly responsible for a violation of any provision of this subchapter committed by another LSRP whose work he supervises or reviews if:

1. The LSRP orders, directs, or agrees to the provision of professional services conducted or prepared by another LSRP under his supervision;
2. The LSRP knows that the professional services constitute a violation of this subchapter; and
3. The LSRP fails to take reasonable steps to avoid or mitigate the violation.

7:26I-6.17 Duty to Comply with Board Directives Regarding Disciplinary Matters

(a) An LSRP shall comply with all conditions imposed by the Board as a result of a license suspension or other disciplinary proceeding conducted by the Board.

7:26I-6.18 Duty Regarding Client Communications

(a) An LSRP shall inform a client or prospective client of any relevant and material assumptions, limitations, or qualifications underlying their communication. Evidence that an LSRP has provided the client or prospective client with timely written documentation of these assumptions, limitations, or qualifications shall be deemed by the Board or the Department to have satisfied the requirements of this section.

7:26I-6.19 LSRP Shall Not Tout or Threaten Based on Connection to Agency or Official

(a) An LSRP shall not state or imply, as an inducement or a threat to a client or prospective client, an ability to improperly influence a government agency or official.

7:26I-6.20 Responsibilities Regarding Advertising or Description of Services

(a) In any description of qualifications, experience, or ability to provide services, an LSRP shall not knowingly:

1. Make a material misrepresentation of fact;
2. Omit a fact when the omission results in a materially misleading description; or
3. Make a statement that, in the opinion of the Board, is likely to create an unjustified expectation about results the LSRP may achieve, or state or imply that the LSRP may achieve results by means that violate the provisions of applicable environmental statutes, rules or regulations, including the provisions of N.J.S.A. 58:10C-1 et seq.

7:26I-6.21 Duty to Inform Even if No Longer Employed By Client

(a) An LSRP shall provide any notification to the Board or the Department required pursuant to this section, even if the LSRP is discharged by the client prior to doing so.

7:26I-6.22 Conflict of Interest

(a) An LSRP shall not accept compensation, financial or otherwise, for professional services pertaining to a contaminated site from two or more persons whose interests are adverse or conflicting unless the circumstances are fully disclosed and agreed to by all clients engaging the LSRP.

(b) An LSRP shall not be a salaried employee of the person responsible for conducting the remediation, or any related entities, for which the LSRP is providing remediation services.

(c) An LSRP shall not allow any ownership interest, compensation, or promise of continued employment, of the LSRP or any immediate family member, to affect the professional services provided by the LSRP.

7:26I-6.23 Certification of Documents by LSRP

(a) For any site for which an LSRP is required to be hired pursuant to the provisions of N.J.S.A. 58:10B-1.3, the person responsible for conducting the remediation shall certify all documents submitted to the Department concerning the remediation of the contaminated site.

(b) The LSRP shall certify that the work was performed, the LSRP managed, supervised, or performed the work that is the basis of the submission, and that the work and the submitted documents are consistent with all applicable remediation requirements adopted by the Department.

7:26I-6.24 Response Action Outcome

(a) Upon completion of the remediation, the licensed site remediation professional shall issue a response action outcome to the person responsible for conducting the remediation when, in the opinion of the licensed site remediation professional, the site has been remediated so that it is in compliance with all applicable statutes, rules and regulations protective of public health and safety and the environment.

(b) The LSRP shall file the response action outcome with the Department when it is issued to the person responsible for conducting the remediation.

7:26I-6.25 Maintenance of Data, Documents, and Information

(a) An LSRP shall maintain and preserve all data, documents and information concerning remediation activities at each contaminated site the LSRP has worked on, including but not limited to, technical records, contractual documents, raw sampling data and monitoring data. This obligation exists whether or not the data, documents and information concerning remediation activities at the site were developed by the LSRP or the LSRP's divisions, employees, agents, accountants, contractors or attorneys.

(b) One electronic copy of the records shall be submitted to the Department at the time the response action outcome is filed with the Department.

7:26I-6.26 Cooperation with Department Review of Remediation

(a) An LSRP and the person responsible for conducting the remediation shall provide any data, documents or other information as requested by the Department to conduct a review of any document submitted for the remediation of a contaminated site or in the review of the performance of a remediation pursuant to N.J.S.A. 58:10C-21.

(b) Unless directed otherwise by the Department, the person responsible for conducting the remediation and the LSRP may continue to conduct the remediation while the Department conducts any inspection or additional review of documents pursuant to N.J.S.A. 58:10C-21.

7:26I-6.27 Cooperation with Audit

(a) An LSRP and the person responsible for conducting the remediation shall cooperate with the Board in the conduct of an audit of the LSRP pursuant to N.J.A.C. 7:26I-5 and shall provide any information requested by the Board as part of the audit.

SUBCHAPTER 7. DISCIPLINARY PROCEEDINGS AND PENALTIES

7:26I-7.1 Purpose

(a) Pursuant to the authority granted at N.J.S.A. 58:10C-5, this subchapter describes the power of the Board to investigate complaints, impose discipline, and suspend and revoke licenses of LSRPs who violate the provisions of N.J.S.A. 58:10C-1 et seq. and to maintain a record of complaints filed against LSRPs and provide the public with information upon request.

(b) Nothing contained in this process shall contravene or in any way contradict the Board's obligation to comply with New Jersey's Open Public Records Act (OPRA) at N.J.S.A. 47:1A-1 et seq.

7:26I-7.2 Scope

(a) This subchapter contains provisions that govern the:

1. Filing of complaints at N.J.A.C. 7:26I-7.3;
2. Determination to investigate complaints at 7:26I-7.4;
3. Investigation of complaints at 7:26I-7.5;
4. Actions of the Board relative to complaints at N.J.A.C. 7:26I-7.6;
5. Actions of the Board relative to violations at N.J.A.C. 7:26I-7.7; and

6. Notice and right to a hearing at N.J.A.C. 7:26I-7.8.

7:26I-7.3 Filing of Complaints

(a) Any person may file a complaint with the Board upon information and belief that a person has violated N.J.S.A. 58:10C-1 et seq. or any rule, regulation, code of conduct or order adopted or issued pursuant thereto, or has knowingly made any false statement, representation, or certification in any documents or information required to be submitted to the Board or the Department.

(b) The Board may take any action allowed by law, including but not limited to, suspending or revoking a license, if the Board finds that an LSRP is unable to perform the essential functions of an LSRP in accordance with the requirements of N.J.S.A. 58:10C-1 et seq. and the regulations promulgated thereto.

(c) Any standing committee of the Board may make a complaint pursuant to N.J.A.C. 7:26I-7.4.

7:26I-7.4 Determination to Investigate Complaints

(a) Complaints to the Board shall be accepted by the Board Secretary, who will redact the identities of the subject of the complaint and the complainant, will acknowledge receipt of the complaint to the complainant, and will forward the complaint to the Board's Professional Conduct Committee ("PCC") to review and process.

(b) Board Members are obligated to follow the conflict of interest provisions enumerated in the New Jersey Conflict of Interest Law, the State Ethics Commission Regulations and the Board's By-Laws adopted on January 10, 2011. **These** provisions require Members of the Board to recuse themselves in the event of a conflict of interest.

(c) The PCC shall review every complaint and determine if there are grounds to investigate the complaint.

(d) If the PCC finds that there are grounds for investigation, it shall convene a Complaint Review Team ("CRT") to investigate the complaint.

(e) If the PCC finds that there are no grounds for investigation, it shall refer the complaint to the Board with a recommendation that the complaint should be dismissed.

1. If the Board decides to dismiss the complaint, the Board Secretary shall notify the subject of the complaint and the complainant that the complaint has been dismissed. A summary of the complaint, the reason(s) for dismissal, and the identities of the subject of the complaint and the complainant shall be public record and published on the Board's website.

2. If the Board decides to pursue the complaint despite a recommendation by the PCC to dismiss the complaint, the complaint shall be remanded to the PCC for investigation pursuant to N.J.A.C. 7:26I-7.5.

7:26I-7.5 Investigation of Complaints

(a) If the PCC identifies grounds for investigation, a CRT shall be appointed by the Chairman of the PCC to undertake an investigation of each complaint pursuant to N.J.A.C. 7:26I-7.4(d) and shall be comprised of:

1. One Board Member who is an LSRP;
2. one Board Member who is not an LSRP; and
3. the Staff Attorney to the Board.

(b) Upon the convening of a CRT for the complaint, the Board Secretary shall advise the CRT of the identities of the subject of the complaint and the complainant.

1. Each CRT member shall certify that he is free of conflict with the subject of the complaint and the complainant, and can fairly and objectively investigate the complaint.

(c) Following the initial review of the complaint by the CRT, the Board Secretary shall notify the subject of the complaint that a complaint has been received. The notification letter shall be delivered by certified mail or personal service and shall include:

1. the name of the complainant;
2. the complaint form filed by the complainant; and
3. a request for information and a response to the allegations of the complaint.

(d) If the CRT determines that the investigation of the complaint could be undermined by notifying the subject of the complaint, the CRT may decide to delay notification until a later date to be determined by the CRT.

(e) The CRT shall take such actions it deems necessary to thoroughly investigate the allegations of the complaint; including but not limited to:

1. Request, order or subpoena the complainant, the subject of the complaint, and any third parties that may have information regarding the facts of the complaint to submit to questioning or interviews;

2. Request, order or subpoena the subject of the complaint, the complainant and any third parties that may have information regarding the facts of the complaint to produce documents and data records;

3. Request, order or subpoena the subject of the complaint, the complainant, and any third parties that may have information regarding the facts of the complaint to respond to inquiries; and

4. Request, order or subpoena the subject of the complaint, the complainant, and any third parties that may have information regarding the facts of the complaint to make sites, remedial systems, monitoring devices or other equipment available for inspection.

(f) The CRT may review information regarding an LSRP that is the subject of the complaint, including records from other cases that the LSRP was involved in, prior complaints, and disciplinary actions.

(g) Upon completion of its investigation the CRT shall prepare a report to the PCC with the identities of the subject of the complaint and the complainant redacted, which shall contain the following information:

1. A chronology of the complaint;
2. An opinion as to the validity of the complaint;
3. A statement of the CRT's findings including the specific violation(s);
4. The grounds for disciplinary action, if any; and
5. A recommendation, if applicable, as to the type of disciplinary action along with a basis for this recommendation.

(h) The PCC shall review the findings and recommendations of the CRT and present the CRT's report and its own recommendation to the Board in Executive Session.

1. In this Executive Session, the identity of the complainant and the subject of the complaint shall not be disclosed to the Board.

7:26I-7.6 Actions of the Board Relative to Complaints

(a) The Board shall review the findings and recommendations of the CRT and PCC in Executive Session.

(b) The Board shall decide to take one of the following actions with regard to the complaint:

1. Refer the complaint back to the PCC for further investigation of specific issues;
2. Dismiss the complaint with or without admonition with the reasons for the dismissal being placed on the record; or
3. Exercise any of the remedies provided by N.J.S.A. 58:10C-17 and the regulations promulgated thereto.

(c) The identities of the subject of the complaint and complainant shall remain confidential until a determination by the Board pursuant to N.J.A.C. 7:26I-7.6 (b) 2 or 3.

(d) Upon a determination by the Board pursuant to N.J.A.C. 7:26I-7.6 (b) 2 or 3, a summary of the complaint and its disposition, along with the identities of the subject of the complaint and the complainant, shall be placed on the record and made available on the Board's website.

7:26I-7.7 Actions of the Board Relative to Violations

(a) Whenever, on the basis of available information, the Board finds that a person has violated N.J.S.A. 58:10C-1 et seq. or any rule, regulation, code of conduct or order adopted or issued pursuant thereto, or has knowingly made any false statement, representation, or certification in any documents or information required to be submitted to the Board or the Department, the Board may:

1. Suspend or revoke the license of an LSRP pursuant to N.J.S.A. 58:10C-17b or impose another penalty on the LSRP as determined by the Board;
 2. Institute a civil action in Superior Court pursuant to N.J.S.A. 58:10C-17c;
 3. Issue an administrative order pursuant to N.J.S.A. 58:10C-17d;
 4. Bring an action for a civil penalty pursuant to N.J.S.A. 58:10C-17e;
 5. Assess a civil administrative penalty pursuant to N.J.S.A. 58:10C-17f;
 6. Issue warnings and letters of reprimand with or without a civil administrative penalty;
- or
7. Petition the Attorney General to bring a criminal action pursuant to N.J.S.A. 58:10C-17a(2).

(b) The exercise of any of the remedies provided in this section shall not preclude recourse to any other remedy so provided.

(c) The Board shall consider the following factors in determining the type of disciplinary action, including the amount of monetary penalty if applicable:

1. The actual or potential impact of the violation(s) to public health, safety, and welfare and the environment;
2. The state of mind of the subject of the disciplinary action in committing the violation(s); for example, purposeful, knowing, reckless or negligent;
3. The actual or potential damages or costs incurred by the State of New Jersey or any person as a result of the violation(s);

4. The actions taken by the subject of the disciplinary action to comply with the provisions of N.J.S.A. 58:10C-1 or any rule, regulation, code of conduct or order adopted or issued pursuant thereto that were violated;

5. The actions taken by the subject of the disciplinary action to remedy or mitigate the damages caused by the violation(s);

6. The history of previous disciplinary action against the subject of the disciplinary action;

7. The Board's interest in deterring future noncompliance by the subject of the disciplinary action or others;

8. The public interest; and

9. Any other factors the Board deems pertinent, which shall be set forth in the Notice issued by the Board.

7:26I-7.8 Notice and Right to a Hearing

(a) Notice shall be provided to an LSRP upon the Board's determination to suspend or revoke his license, or impose another penalty. The notice shall be by certified mail or personal service, and shall:

1. Identify the statutory or regulatory basis of the violation;
2. Identify the specific act or omission constituting the violation;
3. Identify the license to be suspended or revoked, or the penalty to be imposed;
4. Assess and order the payment of the costs of any investigation incurred by the Board, and any other State agency;
5. Affirm the right of the violator to a hearing on any matter contained in the notice and the procedures for requesting a hearing; and
6. Enclose a copy of the Board Administrative Hearing Request Checklist.

(b) Notice shall be provided to a person upon the Board's determination to issue him an Administrative Order. The notice shall be by certified mail or personal service, and shall:

1. Specify the provision or provisions of N.J.S.A. 58:10C-1 et al. or the rule, regulation, code of conduct or order adopted or issued pursuant thereto of which the person is in violation;
2. Cite the action which caused the violation;

3. Require compliance with the provision or provisions;
4. Assess and order the payment of the costs of any investigation incurred by the Board, and any other State agency;
5. Give notice to the person of the person's right to a hearing on the matters contained in the notice and the procedures for requesting a hearing; and
6. Enclose a copy of the Board Administrative Hearing Request Checklist.

(c) Notice shall be provided to a person upon the Board's determination to issue him a Civil Administrative Penalty. The notice shall be by certified mail or personal service, and shall:

1. Identify the statutory or regulatory basis of the violation;
2. Identify the specific citation of the act or omission constituting the violation;
3. State the basis for the amount of the civil penalties to be assessed, which shall be not more than \$10,000 for a first violation and not more than \$20,000 for every subsequent violation of the provisions of N.J.S.A. 58:10C-1 et al. or any rule, regulation, code of conduct, or order adopted or issued pursuant thereto;
4. Assess and order the payment of the costs of any investigation incurred by the Board, and any other State agency, and the reasonable costs of preparing and successfully enforcing a civil administrative penalty pursuant to this Subchapter, in addition to the penalty assessment;
5. Affirm the right of the violator to a hearing on any matter contained in the notice and the procedures for requesting a hearing; and
6. Enclose a copy of the Board Administrative Hearing Request Checklist.

SUBCHAPTER 8. ADJUDICATORY PROCEEDINGS

7:26I-8.1 Purpose

(a) An adjudicatory hearing may be requested to appeal a decision, determination or order of the Board. The request for an adjudicatory hearing must follow the procedures set forth in this subchapter.

(b) The NJDEP Office of Legal Affairs will manage the hearing request process for the Board in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

7:26I-8.2 Scope

(a) This subchapter contains provisions that govern:

1. Adjudicatory hearing requests at 7:26I-8.3;
2. Denial of a request for an adjudicatory hearing at 7:26I-8.4; and
3. Final Orders, Determinations and Decisions at 7:26I-8.5.

7:26I-8.3 Adjudicatory Hearing Requests

(a) A person may request a hearing to appeal a determination by the Board. Determinations that may be appealed include:

1. A denial of an individual's application for an LSRP license pursuant to N.J.A.C. 7:26I-2.7;
2. A denial of an individual's application for an LSRP license renewal pursuant to N.J.A.C. 7:26I-2.11;
3. A determination that the individual's site remediation license shall be suspended or revoked, or another penalty shall be imposed, pursuant to N.J.S.A. 58:10C-17b;
4. An administrative order pursuant to N.J.S.A. 58:10C-17d; and
5. A civil administrative penalty pursuant to N.J.S.A. 58:10C-17f.

(b) A person shall have 35 days from receipt of the notice issued pursuant to N.J.A.C. 7:26I-2.7, N.J.A.C. 7:26I-2.11 or N.J.A.C. 7:26I-7.7 within which to request a hearing on any matter contained in the notice, and shall comply with all procedures for requesting a hearing.

(c) The request for a hearing must be written, signed and dated, and delivered by certified mail or personal service to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, MC 401-04L
P.O. Box 402
Trenton, New Jersey 08625-0402

2. New Jersey Department of Environmental Protection
Site Remediation Program
Office of the Assistant Commissioner

Attention: Adjudicatory Hearing Requests
401 E. State Street, MC 401-06
PO Box 420
Trenton, New Jersey 08625-0420

(d) The request for a hearing must include the information on the Board Administrative Hearing Request Checklist, which is found on the Board Website. Such information shall include, but is not limited to:

1. The name and mailing address of the petitioner;
2. The name and mailing address of the petitioner's attorney, if applicable, that will represent the petitioner in the hearing;
3. The date the written notice was received;
4. A copy of the written action or notice of the decision being appealed;
5. A list of all issues being appealed;
6. An admission or denial of each of the Board's findings;
 - i. If the petitioner is without knowledge or information sufficient to form a belief as to the truth of a finding, the petitioner shall so state and this shall have the effect of a denial.
 - ii. A denial shall fairly meet the substance of the finding denied.
 - iii. When the petitioner intends in good faith to deny only a part or a qualification of a finding, the petitioner shall specify so much of it as is true and material and deny only the remainder.
 - iv. The petitioner may not generally deny all of the findings, but shall make all denials as specific denials of designated findings. For each finding the petitioner denies, the petitioner shall state the fact or facts as the petitioner believes it or them to be.
 - v. If a hearing request fails to include a specific admission, denial or explanation of each fact alleged, or a statement that the person is without knowledge thereof, the facts alleged in the notice shall be deemed to have been admitted.
7. The defenses to each of the Board's findings of fact or conclusions of law, stated in short and plain terms;
8. Information supporting the request;

9. Specific reference to or copies of written documents or other evidence relied upon to support the request;

10. The relief sought;

11. An estimate of the time required for the hearing (in days and/or hours); and

12. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

7:26I-8.4 Denial of a Request for an Adjudicatory Hearing

(a) The Board shall determine whether to grant an administrative hearing based upon the standards for a contested case hearing set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

(b) The Board shall deny the hearing request if the petitioner does not:

1. Submit a request within 35 days of receipt of the notice; or
2. Submit all of the information required in N.J.A.C. 7:26I-8.3.

7:26I-8.5 Final Orders, Determinations and Decisions

(a) A notice of denial of an application for a new or renewed LSRP license shall become a final order upon the occurrence of any of the following:

1. If an adjudicatory hearing is conducted and there is finding that the application was rightfully denied, the Board shall issue a final order denying the application;
2. If an adjudicatory hearing is requested and the Board denies the hearing request pursuant to the standards in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the notice of denial of the hearing shall become a final order denying the application upon receipt of the notice by the applicant; or
3. If no hearing is requested pursuant to the procedures in N.J.A.C. 7:26I-8.3, a notice of denial of an application for new or renewed LSRP license shall become final after the expiration of the 35-day period.

(b) A notice of intent to suspend or revoke the license of an LSRP, or to impose another penalty, shall become a final order upon the occurrence of any of the following:

1. If an adjudicatory hearing is conducted and there is a finding that a violation has occurred, the Board shall issue a final order suspending or revoking the license, or imposing the penalty specified in the notice;

2. If an adjudicatory hearing is requested and the Board denies the hearing request pursuant to the standards in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the notice of denial of the hearing shall become a final order suspending or revoking the license, or imposing the penalty, upon receipt of the notice by the violator; or

3. If no hearing is requested pursuant to the procedures in N.J.A.C. 7:26I-8.3, a notice of intent to suspend or revoke the license, or to impose another penalty, shall become final after the expiration of the 35-day period.

(c) A notice of administrative order shall become a final order upon the occurrence of any of the following:

1. If an adjudicatory hearing is conducted and there is a finding that a violation has occurred, the Board shall issue a final order;

2. If an adjudicatory hearing is requested and the Board denies the hearing request pursuant to the standards in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the notice of denial of the hearing shall become a final order upon receipt of the notice by the violator; or

3. If no hearing is requested pursuant to the procedures in N.J.A.C. 7:26I-8.3, a notice of administrative order shall become final after the expiration of the 35-day period.

(d) A notice of assessment of a civil administrative penalty shall become a final order upon the occurrence of any of the following:

1. If an adjudicatory hearing is conducted and there is a finding that a violation has occurred, the Board shall issue a final order;

2. If an adjudicatory hearing is requested and the Board denies the hearing request pursuant to the standards in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the notice of denial of the hearing shall become a final order upon receipt of the notice by the violator; or

3. If no hearing is requested pursuant to the procedures in N.J.A.C. 7:26I-8.3, a notice of assessment of a civil administrative penalty shall become final after the expiration of the 35-day period.

SUBCHAPTER 9. PROHIBITION AGAINST RETALIATORY ACTION

7:26I-9.1 Purpose

(a) An LSRP's highest priority in the performance of professional services shall be the protection of public health and safety and the environment.

(b) At times, an LSRP may be required to take action that is adverse to a client, an employer, or another person in order to protect public health and safety and the environment or otherwise carry out his professional services in compliance with N.J.S.A. 58:10C-1 et seq. and any rule, regulation, code of conduct or order adopted or issued pursuant thereto.

(c) This subsection is intended to deter persons from retaliating against LSRPs for taking certain actions in the performance of professional services.

(d) This subsection is also intended to deter LSRPs from retaliating against persons who bring complaints to the Board about the professional services of LSRPs; or who provide information to the Board during the conduct of an audit or investigation of the LSRP.

(e) Retaliatory actions shall include; but shall not be limited to, reprisal by discharge, suspension, demotion or other adverse employment action taken against an employee in the terms and conditions of employment, or otherwise terminating a person's employment or contract to provide professional services.

7:26I-9.2 Retaliatory Action Prohibited

(a) No person shall take or threaten to take retaliatory action if an LSRP:

1. Discloses, or undertakes to disclose, to the Board or to the Department an activity, policy, or practice that the LSRP reasonably believes:

i. Is a violation of law, or a rule or regulation adopted pursuant to law, including any violation involving deception of, or misrepresentation to, any client, customer, the Department, or any other governmental entity; or

ii. Is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation that the LSRP reasonably believes may defraud any client, customer, the Department, or any other governmental entity.

2. Provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any violation of law, or rule or regulation adopted pursuant to law, by a client or customer with whom there is a business relationship, including any violation involving deception of, or misrepresentation to, any client, customer, the Department or any other governmental entity, or provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into the quality of remediation of a contaminated site; or

3. Objects to, or refuses to participate in, any activity, policy or practice which the LSRP reasonably believes:

i. Is in violation of law, or a rule or regulation adopted pursuant to law, including any violation involving deception of, or misrepresentation to, any client, customer, the Department or any other governmental entity;

ii. Is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the LSRP reasonably believes may defraud any client, customer, the Department or any other governmental entity; or

iii. Is incompatible with a clear mandate of public policy concerning the protection of the public health, safety, or the environment.

(b) No LSRP shall take or threaten to take retaliatory action against a person who brings a complaint to the Board against an LSRP or provides information to the Board during the conduct of an investigation of a complaint pursuant to N.J.A.C. 7:26I-7 or provides information to the Board during the conduct of an audit pursuant to N.J.A.C. 7:26I-5.

7:26I-9.3 Disciplinary Action

(a) Any person that violates any provision of N.J.A.C. 7:26I-9 shall be subject to disciplinary action by the Board pursuant to N.J.A.C. 7:26I-7.